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CLERK OF DISTRICT COURT
MIDDLE DISTRICT OF FLORIDA
TAMPA, FLORIDA

UNITED STATES DISTRICT COURT
MIDDLE DISTRICT OF FLORIDA
TAMPA DIVISION

MARGERY WAKEFIELD,

Plaintiff,

vs.

Case No. 82-1313-Civ-T-GC

THE CHURCH OF SCIENTOLOGY
OF CALIFORNIA a/k/a THE CHURCH
OF SCIENTOLOGY OF CALIFORNIA,
INC.,

Defendant.

O R D E R

This cause comes before the Court upon the plaintiff's motion to compel the defendant's production of documents. The plaintiff seeks her auditing file which was maintained by the defendant during the plaintiff's membership with the Church. The defendant has responded to the plaintiff's motion by requesting a protective order against the production of the plaintiff's auditing report. The defendant maintains that the plaintiff's access to her auditing file is precluded under the clergyman's privilege.

The defendant, however, misunderstands the nature of the clergyman's privilege. This privilege, like most such testimonial privileges, serves to encourage the discussion of confidential

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EXHIBIT J

matters by the client. The privilege is the client's and not the clergyman's. Cf. Wirtz v. Fowler, 372 F.2d 315 (5th Cir. 1966). Once the client chooses not to invoke the privilege the clergyman cannot assert his own independent privilege. Thus, the defendant's objections to the motion to compel are meritless. Accordingly, the plaintiff's motion is GRANTED and the Court ORDERS the defendant to comply with the plaintiff's discovery request within ten days of the date of this Order.

The Court also has before it the defendant's motion for an order authorizing the release of plaintiff's medical/psychiatric records. The plaintiff's complaint alleges that the defendant's treatment caused her psychological problems including debilitating attacks of panic, agoraphobia, hallucinations and delusions. As the state of the plaintiff's mental health both before and after her contact with the defendant is a major issue in this litigation, the defendant has a right to information relating to that issue. The defendant seeks a Court Order pursuant to Fla. Stat. §394.459(9) authorizing the relevant health care provider to release the plaintiff's medical and psychiatric records to the defendant. However, the relevant records include records from four jurisdictions outside of Florida. The Court is uncertain of the efficacy of its Order in those foreign jurisdictions.

In order to remedy this situation the plaintiff has suggested that she will collect all records desired by the defendant and release them to the defendant. This seems the sensible way to resolve the dispute. Accordingly, the Court ORDERS the plaintiff to collect all records sought by the defendant and to release those records to the defendant. The plaintiff shall in no way edit or selectively release the records.

To provide for the continued privacy of those records the Court ORDERS:

1. Depositions of professionals providing psychiatric treatment be taken with only counsel for the parties present and the depositions filed in the Court file in a sealed envelope to be viewed only by Court personnel.

2. The psychiatric records and depositions shall be restricted to the view of counsel for the parties and such psychiatric experts counsel would consult with in this case. There shall be no publication of either the records or the deposition to other third parties.

The Court notes that there is no need for the defendant to first depose plaintiff's doctors before obtaining the records.

Lastly, the Court has before it the plaintiff's motion to strike the defendant's reply memorandum. Although defendant's memorandum does reply to the plaintiff's memorandum in opposition

to defendant's motion to dismiss, it accompanies the defendant's motion to dismiss and alternatively for summary judgment. As the defendant's memorandum facially presents a new matter, a summary judgment motion, the plaintiff's motion to strike is DENIED.

DONE AND ORDERED in Chambers at Tampa, Florida, this 25TH day of July, 1983.


UNITED STATES DISTRICT JUDGE